

In re Application of: Bobrowski, Paul J
Serial No.: 10/674,986
Raymond J.
Atty. Docket No.: PHMC0745-020

Art Group: 1614
Examiner: Henley III,

Amendment dated 6/11/2004
Reply to Office Action of March 15, 2004

REMARKS/ARGUMENTS

In the specification, the paragraphs [009] and [016] have been amended.

Claim Objections

Claims 1-10 and 13-16 remain in this application. Claims 3, 11 and 12 have been canceled. New Claims 17 & 18 are added.

The Examiner objected to claims 5 & 8 alleging the existence of grammatical errors. The Applicant has adopted the Examiner's suggestions regarding these claims. The Examiner objected to claims 11 & 12 for failing to limit the subject matter of the invention. The Applicant has cancelled claims 11 & 12.

Claim Rejections

Claim Rejections - 35 U.S.C. § 112, 2nd ¶

The Examiner rejected claims 1-16 under 35 U.S.C. §112 2nd ¶, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

Claims 1 & 16 - Including the step of "separating".

The Examiner rejected claims 1 & 16 under 35 U.S.C. §112 2nd ¶ for failure to include a separate step for "separating" (Examiner's Office Action, pg. 3.). The Applicant has amended claims 1 & 16 to include the step of "separating" - it is axiomatic that "settling" is one particular way of "separating" the combination disclosed by the Applicant. The Applicant has also added "New"

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dependant claims 17 & 18 regarding this distinction. The Applicant requests withdrawal of this rejection.

Claim 1 - "lipidic" and "lipophilic"

The Examiner rejected claim 1 under 35 U.S.C. §112 2nd ¶ indicating that the use of the terms "lipidic" and "lipophilic" is confusing (Id.). Since the Applicant's aim is to isolate the solutes of the aqueous phase/layer, the Applicant has removed the reference to the organic phase/layer to alleviate the alleged confusion regarding reference to "lipophilic constituents" of the organic phase/layer.

Claim 6 - "drying" and Claims 9 & 10 "the starting oxindole alkaloids content.."

The Applicant has amended the claims. Claim 6 has been amended to depend from claim 2 and claims 9 & 10 have been amended to address the Examiner's concerns.

Claim 8-10 - the amount of oxindole alkaloid

The Examiner rejected claims 8-10 under 35 U.S.C. §112 2nd ¶. The Applicant has amended claim 8 to claim an extract of genus *Uncaria* having a reduced oxindole alkaloid content. Moreover, it is respectfully urged that the essential element is positively claim, the "extract of genus *Uncaria*" having a certain depleted alkaloid content - it is respectfully urged that an ordinarily skilled

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person in the art would appreciate that the claimed genus *Uncaria* extract is expressed according the *measure of depleted* oxindole alkaloids. MPEP §2171.

Claims 14 & 15 - biologically active amounts

The Examiner rejected claims 14-15 under 35 U.S.C. §112 2nd ¶ alleging the omission of "that which is present in a biologically active amount." The Applicant has amended claim 8 to claim an extract of genus *Uncaria* having polar constituents and a reduced oxindole alkaloid content. The essential element is positively claimed, the "extract of genus *Uncaria*" having polar constituents and a depleted alkaloid content - it is respectfully urged that an ordinarily skilled person in the art would appreciate that the claimed genus *Uncaria* extract is expressed according the *measure of depleted* oxindole alkaloids. MPEP §2171.

Claim 15 - broad and narrow ranges

The Applicant has amended claim 15 to omit the narrow range.

Claim Rejections - 35 U.S.C. § 112, 1st ¶

Claims 1-16 - use of "Rubiaceae" and "lipidic"

Per the Examiner's suggestion, the Applicant has amended the claims to delete reference to Rubiaceae and refer instead to the genus *Uncaria*. Moreover, the Applicant has amended paragraph 16 to provide antecedent bases for "lipidic" in the specification.

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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

Ellis & Venable

Date: June 11, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax No. 703-872-9306) on June 11, 2004.

Signature Michael F. Campillo

Michael F. Campillo.